IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 17798 of 2007(R)

PETITIONER:

CHAKKARA MAMMUTTY, AGED 47 YEARS,
S/O IBRAYI HAJI, MANAGING PARTNER,
POONCHOLA PLANTATIONS, POST VYTHIRI, VYTHIRI TALUK
WAYANAD DISTRICT, RESIDING AT FATHIMA MANZIL,
ANJUKUNNU AMSOM, MANANTHAVADY TALUK.

BY ADV. SRI.K.RAMAKUMAR
SRI.R.JAYACHANDRAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF FORESTS, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

3. THE CHIEF CONSERVATOR OF FORESTS,
THIRUVANANTHAPURAM.

4. THE DIVISIONAL FOREST OFFICER,
SOUTH WAYANAD.

BY SPL. GOVERNMENT PLEADER (FOREST) SRI. RENJITH THAMPAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.17798 OF 2007

DATED THIS THE 29th DAY OF JUNE, 2007

JUDGMENT

The petitioner challenges Ext.P9 notification issued by the Government of Kerala under the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act 2003 declaring the petitioner's lands as ecologically fragile lands. The petitioner submits that since the petitioner's property is a cardamom plantation, the same is expressly excluded from the purview of the Act.

2. The learned Government pleader submits that the Government has constituted a Tribunal as provided under Section 9 of the Act,before which the petitioner can challenge Ext.P9 notification and the petitioner can raise all his contentions before the Tribunal.

In the above circumstances, without prejudice to the right of the petitioner to approach the Tribunal constituted under Section 9 of the Act, this writ petition is dismissed. The petitioner would also be entitled to seek interim relief which the Tribunal shall consider appropriately.

S. SIRI JAGAN, JUDGE

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